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FILED
JAN 16 1965
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964.

No. 841

LOUISA MARIANO,
Petitioner,

vs.

STATE OF CONNECTICUT,
Respondent.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT.

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The State emphatically objects to the following contents of petitioner's petition for a Writ of Certiorari as appears in the first sentence of the last paragraph on page 6 of the printed petition, because it is not a true and accurate statement of the problem presented in this petition. In addition to objecting to same, the State also attacks its veracity and the sincerity of the petitioner in making such a statement.

A concise and direct answer can be found in the opinion of the Supreme Court of Errors of the State of Connecticut which appears in Appendix "A" on page A-1 of the petitioner's printed brief which is quoted in part as follows:

> "The defendant had a full hearing on her motion to suppress, lasting an entire day, during which seven witnesses were examined, ninety-three pages of transcript taken and the search warrant admitted as an exhibit. Counsel for the defendant called to the witness stand the defendant, her two daughters and two of the officers who participated in the raid. There is no justification whatsover for the assertion by the defendant that she was limited or foreclosed in any effort to prove the aliegations of her motion to suppress. Such a claim is not only inaccurate but untrue, as the record of the entire proceedings on the motion to suppress discloses. The only claim advanced by the defendant which might conceivably support such an assertion is the exclusion by the court of one question addressed to one of the officers on cross-examination on the issue of probable cause for the issuance of the search warrant. The defendant

sought to cross-examine the officer as to whether prior to the raid he had determined the number of entrances and exits to the defendant's house. It can hardly be validly asserted that the exclusion of this one irrelevant inquiry foreclosed the defendant from proof of her allegations of illegality. She had the burden of proving these allegations; . . . and the court found that she did not sustain this burden."

State of Connecticut v. Louisa Mariano, 152 Conn. 85, 203 A2d. 305

The petitioner had her day in court on the issue of probable cause as to the issuance of the search warrant and the burden was upon her to establish by competent evidence that there was no probable cause for the issuance of the search warrant. **State v. Bailey,** 184 A2d. 61. See Record, paragraphs 47, 48 and 49, Motion to Suppress, as to conclusions reached by the court relating to the search and seizure, the legality of which is now attacked.

The state, therefore, respectfully submits that based upon the findings as outlined above and the analysis of this very claim taken from the unanimous opinion of the Supreme Court of Errors, and quoted above, that this petition be denied.

Respectfully submitted,

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